

REMARKS/ARGUMENTS

Claims 1-21 are pending in the Instant application. Claims 3-6, 11-14 and 18-21 have been withdrawn from consideration; however, Applicants reserve the right to seek patent protection for the subject matter of claims 3-6, 11-14, and 18-21 by divisional application. New Claim 22 has been added. Claims 7 and 8 have been canceled. Claims 2, 9, 10 15-17 have been amended to depend from new Claim 22. Applicants submit that support for the amendment can be found throughout the specification as filed and specifically originally filed Claims 1, 7 and 8. Applicants submit that no new matter has been added by way of these amendments.

In the Final Office Action mailed April 5, 2005, the Examiner objects to the drawings, the abstract, the disclosure and Claims 1, 2, 9, 10 and 15-17. The Examiner rejects claims 1, 2 and 9 – 21 under 35 U.S.C. § 102(b). As indicated above, claims 11 – 14 and 18 – 21 have been withdrawn from consideration, therefore, Applicants assume the Examiner meant to reject claims 1, 2, 9, 10 and 15 – 17 under 35 U.S.C. § 102(b). The Examiner rejects Claims 1, 2, 9, 10 and 15 - 17 under 35 U.S.C. §112, 2nd paragraph. Based on the amendments and remarks made herein, Applicants respectfully request that the objections and rejections be withdrawn and that the application be passed to allowance.

1. Response to Paragraph 3 of the Final Office Action mailed April 5, 2005

In the Final Office Action mailed April 5, 2005, the Examiner objects to the drawings under 37 CFR 1.83(a), the Examiner states that "[t]he drawings must show every feature of the invention specified in the claims. Therefore, the invention as claimed in Claim 16 must be shown or the feature(s) canceled from the claim(s)."

Applicants respectfully submit that the drawings do show every feature of the Invention specified in the claims. The unique feature of Claim 16, specifically "the back waist region of the article", is shown in Fig. 3 and is labeled as "24". Moreover, Applicants respectfully submit that Figs. 1, 2, 3, 6, 7 and 8 depict elements ascertainable to one of ordinary skill in the art as the back waist region of the article. Accordingly, the objection to the drawings under 37 CFR 1.83(a) is obviated and should be withdrawn.

2. Response to Paragraph 4 of the Final Office Action mailed April 5, 2005

In the Final Office Action mailed April 5, 2005, the Examiner objects to the Abstract of the disclosure because "the abstract still includes grammatical errors." Applicants appreciate the Examiner's suggestion, however prefer their submitted Abstract. Applicants have reviewed MPEP § 608.01(b) and can not find any error with the Abstract and submit that the objection is without merit. Accordingly, the objection to the Abstract of the disclosure stated in Paragraph 5 should be withdrawn.

3. Response to Paragraph 5 of the Final Office Action mailed April 5, 2005

In the Final Office Action mailed April 5, 2005, the Examiner objects to the disclosure because of three informalities.

1. The Examiner states, "[i]n the 1-17-05 amendment to page 10, lines 13, lines 5 and 10 are grammatically incorrect." Applicants have reviewed the cited passage and do not find the errors referred to by the Examiner. Applicants request the objection be further clarified or withdrawn.
2. The Examiner states, "[o]n page 2, line 17, line 9, "79" should be --79--." Applicants have reviewed the cited passage and do not wish to make the Examiner suggested changes. Applicants request that the objection be withdrawn.
3. The Examiner states, "[r]egardless of Applicant's arguments the description would be in better form if the side edges which the component 66 extends beyond are described as those of the chassis or combination of elements 28, 42 and 44 not those of the entire diaper or article 20." Applicants appreciate the Examiner suggestions; however Applicants prefer the description in its current form. Applicants request that the objection be withdrawn.

As a result, Applicants assert the Examiner's objection is in error. Accordingly, the objections to the disclosure stated in Paragraph 5 should be withdrawn.

4. Rejection under 35 U.S.C. §112, second paragraph (Paragraph 6 of the Final Office Action mailed April 5, 2005)

In the Final Office Action mailed April 5, 2005, the Examiner rejects Claims 1, 2, 9, 10 and 15 – 17 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Further, the Examiner states:

In regard to Claim 1, are the fastener area and the zones of the first and second zones of fastening material one and the same, i.e. how many fastener areas at a minimum are there? Two? Three?

Claim 1 has been canceled and claims 2, 9, 10, 15 – 17 now depend on new Claim 22. For these reasons, Applicants respectfully request that the Examiner withdraw the rejection of Claims 1, 2, 9, 10 and 15 – 17.

5. Claim Language Interpretation (Paragraph 7 of the Final Office Action mailed April 5, 2005.

In the Final Office Action mailed April 5, 2005, the Examiner believes that "disposable" is defined as set forth on page 11, lines 19 – 21. Applicants agree that "disposable" is defined as set forth on page 11, lines 19 – 21.

The Examiner believes that "prefastened", is considered as configured when fasteners are attached, i.e. a pant-like configuration, to be pulled up or down over the hips of a wearer, i.e. prior to application to the wearer, but does not require forming of such configuration during the manufacturing process. Applicants respectfully disagree. Applicants assert that the articles of the invention are formed in a pant-like configuration during the manufacturing process. Prefastened articles are described throughout the specification; for example:

Page 2, lines 3 – 6:

Conventional diapers are not provided in a "prefastened" condition...

Page 2, lines 15 – 17:

...such conventional diapers are not provided in a pant-like, prefastened configuration and, thus, are not configured to be pulled up or down over the hips of the wearer when the fasteners are attached.

Page 11, lines 10 – 16:

The prefastened absorbent articles are also refastenable such that they can be secured to and removed directly from the waist of the wearer and easily inspected to determine if they have been soiled during use. As such, the pant-like, prefastened, disposable absorbent articles of the present invention can function in a similar manner to conventional training pants when left in the prefastened, pant-like configuration, or they can be unfastened prior to or during use to function in a refastenable manner similar to conventional diapers.

Page 29, lines 33 – 35:

The hook and tape fasteners provided on currently available diapers cannot simply be positioned in a front waist region 22 of a diaper to provide a pant-like, prefastened configuration. Conventional fasteners do not have the proper dimensions to provide a functional prefastened article.

Therefore the specification supports, for purposes of the present invention, that a "prefastened" article, is an article that is configured, when fasteners are attached, i.e. a pant-like configuration, to be pulled up or down over the hips of a wearer, i.e. prior to application to the wearer, and does require forming of such configuration during the manufacturing process.

The Examiner believes the terms "multiple property", "non-abrasive" and "oversized" have not been specifically defined and therefore will be accorded their common, i.e. dictionary, definition. The

Examiner believes that "multiple property" is defined as having more than one property, i.e. any property. One having skill in the art would recognize that the specification supports, for purposes of the present invention, that a "multiple property fastener" is a fastener that has multiple properties related to fastening, for example, the fastener may have the property of engagement and the property of non-abrasiveness. Specifically, page 4, lines 30 – 32 reads "[t]he multiple property fasteners of the invention provide multiple features such as reliable engagement and skin friendliness (or reduced abrasiveness) in a single fastener."

The Examiner believes the term "non-abrasive" is defined as not "causing abrasion, harsh, rough", not "to rub off or wear away by friction". On page 4, lines 30 – 32, the specification reads, "[t]he multiple property fasteners of the invention provide multiple features such as reliable engagement and skin friendliness (or reduced abrasiveness) in a single fastener. Therefore, for purposes of the present invention, "non-abrasive" is defined as skin friendly.

The Examiner believes the term "oversized" is considered a relative term absent claiming of specific dimension thereof. Table 1, located on page 31 of the specification, compares diapers having different sized fasteners, including conventional diapers. The specification goes on to discuss the relative benefits of having fasteners oversized in comparison to conventional diapers. Therefore the specification supports, for purposes of the present invention, that an "oversized fastener", is a fastener that is larger in size than the fastener of a corresponding conventional diaper.

With regard to the term "mechanical fastening material" the Examiner references page 9, lines 2 – 3, and page 22, lines 7 – 10. The specification reads at page 9, lines 2 – 3, "[i]n addition to using traditional hook and loop components, the multiple property fasteners could also be fabricated using adhesive or tape materials." Page 9, lines 2 – 3, does not reference the term "mechanical fastening material." The specification reads at page 22, lines 7 – 10, "[s]uitable fastening materials to provide the engageable portions of the multiple property fasteners 60 are well known to those skilled in the art and can include adhesive tape tab fasteners, hook and loop fasteners, mushroom fasteners, snaps, pins, belts and the like, and combinations thereof." Page 22, lines 7 – 10, does not reference the term "mechanical fastening material." The specification at page 5, lines 29 – 32 reads, "[t]he first mechanical fastening material is desirably selected to provide strong engagement with another surface. **When the mechanical fastening material is a hook-type material**, it is desirable to select a hook that provides strong engagement with a loop-type material" (emphasis added). Accordingly, the specification supports that the term "mechanical fastening material" should be accorded the common definition as is known in the art and include at least hook-type material.

6. Rejection under 35 U.S.C. §102(b) (Paragraph 8 of the Final Office Action mailed April 5, 2005)

In the Final Office Action mailed April 5, 2005, the Examiner rejects claims 1 -2 and 9 - 21 under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent No. 5,957,908 issued to Kline et al. (hereinafter "the Kline patent") and thereby U.S. Patent No. 4,946,527 issued to Battrell (hereinafter "the Battrell patent"). As indicated above, claims 11 - 14 and 18 - 21 have been withdrawn from consideration, therefore, Applicants assume the Examiner meant to reject claims 1, 2, 9, 10 and 15 - 17 under 35 U.S.C. § 102(b) in Paragraph 10. As indicated above, Claim 1 has been canceled. This rejection as applied to the presently present claims is respectfully traversed.

Applicants submit that the Kline patent does not disclose a the multiple property fastener comprising at least two zones, at least one engagement zone of a first mechanical fastening material and at least one non-abrasive zone of a second mechanical fastening material wherein the first mechanical fastening material is comprised of a polymeric material selected to have a flexural modulus greater than about 30 kilopounds per square inch and the second mechanical fastening material is comprised of a polymeric material selected to have a flexural modulus between about 7 kilopounds per square inch and about 30 kilopounds per square inch as required by Claim 22.

For at least these reasons, Applicants respectfully submit that independent Claim 22 is patentable over the Kline patent. Moreover, Claims 2, 9, 10 and 15-17, which depend from independent Claim 22, are also accordingly patentable over the Kline patent.

In conclusion, and in view of the amendments and remarks, reconsideration and withdrawal of the Examiner's rejection under 35 U.S.C. § 102(b) is respectfully requested. Further, in view of the amendments and remarks, reconsideration and withdrawal of the Examiner's rejection under 35 U.S.C. §112 2nd paragraph is respectfully requested. Moreover, it is respectfully submitted that all of the presently presented claims are in condition for allowance and such action is earnestly solicited. If the Examiner has any questions or if there are any remaining issues that can be handled by telephone, the Examiner is invited to contact the undersigned at (920) 721-4558.

The Commissioner is hereby authorized to charge any prosecutorial fees (or credit any overpayment) associated with this communication to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such extension is requested and should also be charged to our Deposit Account. Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 920-721-4558.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I, Barbara D. Miller, hereby certify that on July 5, 2005, this document is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872-9306.

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